

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Giovanni Kurtze,

Plaintiff

V.

Joseph Lombardo, et al.,

Defendants

2:17-cv-02427-JAD-PAL

Order Dismissing Case

On September 26, 2017, Magistrate Judge Leen ordered pro se plaintiff Giovanni Kurtze to file a completed application to proceed *in forma pauperis* or pay the \$400.00 filing fee within 30 days.¹ Judge Leen also informed Kurtze that his failure to file a completed pauper application or pay the filing fee would result in dismissal of this action.² The 30-day deadline has now expired, and Kurtze has not complied with or otherwise responded to Judge Leen’s order.

District courts have the inherent power to control their dockets, and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.³ A court may dismiss an action with prejudice based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.⁴ In determining whether to dismiss an action for lack of

¹ ECF No. 3 at 2.

² *Id.*

³ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

⁴ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424

1 prosecution, failure to obey a court order, or failure to comply with local rules, the
2 court must consider several factors: (1) the public's interest in expeditious
3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of
4 prejudice to the defendants; (4) the public policy favoring disposition of cases on
5 their merits; and (5) the availability of less drastic alternatives.⁵

6 I find that the first two factors weigh in favor of dismissal. The risk-of-
7 prejudice factor also weighs in favor of dismissal because a presumption of injury
8 arises from the occurrence of unreasonable delay in filing a pleading ordered by the
9 court or prosecuting an action.⁶ The fourth factor is greatly outweighed by the
10 factors in favor of dismissal. Finally, a court's warning to a party that his failure to
11 obey the court's order will result in dismissal satisfies the "consideration of
12 alternatives" requirement,⁷ and Judge Leen warned Kurtze that dismissal would
13 result from his noncompliance.⁸

14 Accordingly, IT IS HEREBY ORDERED that this action is **DISMISSED**
15 without prejudice based on Kurtze's failure to file an application to proceed *in forma*
16 *pauperis* or pay the \$400 filing fee in compliance with Judge Leen's September 26,
17 2017, order.

18
19
20
21 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local
22 rules).

23 ⁵ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at
24 130; *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

25 ⁶ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

26 ⁷ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at
27 1424.

28 ⁸ ECF No. 3 at 2.

The Clerk of Court is directed to enter judgment accordingly and CLOSE THIS CASE.

DATED: November 3, 2017.


Jennifer A. Dorsey
United States District Judge